

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

UNITED STATES OF AMERICA, :

v. :

Case No. 7:18-CR-60 (WLS)

PAUL A. BRADFORD, :

Defendant. :

ORDER

Before the Court is Defendant Paul Bradford's Motion to Suppress (Doc. 22). For the following reasons, Bradford's Motion to Suppress is **DENIED**.

PROCEDURAL BACKGROUND

On November 14, 2018, Defendant was indicted for possession of a firearm by a convicted felon. (Doc. 1.) On January 11, 2019, Defendant moved to suppress all evidence obtained after police officers entered his home and observed contraband, allegedly in violation of the Fourth Amendment. (Doc. 22.) The Government responded to Defendant's motion. (Doc. 27.) On March 7, 2019, the Court held a hearing on the Motion. (*See* Doc. 38.) Following the hearing, Defendant filed a supplemental brief, the Government filed a supplemental response, and Defendant filed a supplemental reply. (Docs. 41, 47, 49.) Accordingly, the motion is ripe for review.

FACTUAL FINDINGS

At the March 7, 2019 hearing on Defendant's Motion to Suppress, the Government presented four witnesses and its two exhibits were admitted without objection. (*See* Doc. 38.) Defendant presented no witnesses and its four exhibits were admitted without objection. *Id.* Upon reviewing the exhibits, witnesses' testimony, and Parties' arguments, the Court makes the following findings of fact.

On the morning of July 18, 2018, officers of the Berrien County Sheriff's Office and Lanier County Sheriff's Office went to Bradford's residence to execute an arrest warrant for Wendy Palmer. Investigator Mark Parr of the Berrien County Sheriff's Office had received information from a reliable confidential informant that Wendy Palmer was at Bradford's house. Parr had also looked into Bradford in advance and learned that Bradford was a convicted felon. Parr went to the front door of Bradford's residence while other officers went to the back and another stood out front. A few minutes after Parr knocked on the door, Bradford answered and was cooperative. After Parr showed Bradford the warrant for Palmer's arrest, Bradford said she was inside getting dressed, and Parr and Bradford stepped inside and continued talking. The other officers were called to the front and also stepped inside. Also inside was a man who appeared to be sleeping at the table, but he stated that he was fine. After a few minutes, Parr said that Palmer needed to go and asked what room she was in. The officers thought that she might be trying to escape. Bradford pointed to the back, and the officers walked to a rear bedroom where Palmer was sitting down. Her foot was injured, and she had a bag of clothes, crutches, and toiletry items. The Berrien County officers observed a shotgun against the wall and notified the Lanier County officers about the gun. Deputy Joshua Cruse of the Lanier County Sheriff's Office then walked to bedroom and confirmed that there was a shotgun. The Berrien County officers then took Palmer to jail, and the Lanier County officers took Bradford and the unknown man outside while they waited for a search warrant. The shotgun was seized and following the search, Bradford was arrested. After Bradford's arrest, he was interviewed by Investigator Billie Jo Slaughter with whom he signed a voluntary waiver of his *Miranda* rights and spoke about his possession of the gun.

DISCUSSION

A. Entry based on the Arrest Warrant

An arrest warrant for a suspect carries a "limited authority" to enter a suspect's residence when there is reason to believe the suspect is inside. *Payton v. New York*, 445 U.S. 573, 603 (1980). As such, an officer executing an arrest warrant may lawfully enter a residence if: (1) "the location to be searched is the suspect's dwelling" and (2) "the suspect is within the residence at the time of entry." *United States v. Magluta*, 44 F.3d 1530, 1535 (11th Cir. 1995);

United States v. Weeks, 666 F. Supp. 2d 1354, 1369 n. 29 (N.D. Ga. 2009) (clarifying that a house is a person's residence if he resides there and is more than a mere guest) (citing cases). Common sense factors guide both prongs of this test. *United States v. Bervaldi*, 226 F.3d 1256, 1263 (11th Cir. 2000) (explaining that courts can consider six-month-old addresses and the time of day and the presence of cars or other people in determining whether an officer's beliefs were reasonable). Here, Investigator Parr testified that he had learned that Palmer was at Bradford's residence but did not know how long Palmer had been there and did not know if she had a permanent address.¹ That may be enough to warrant a reasonable belief that Palmer resided with Bradford. See *Brand v. Casal*, No. 1:13-CV-0322, 2015 U.S. Dist. LEXIS 170537, at *30 (N.D. Ga. Dec. 21, 2015) ("[E]ven one source as to a suspect's residential address . . . can be sufficient to supply a reasonable belief."). Furthermore, before they entered the house, Bradford told the officers that she was inside getting ready and another man was seen asleep at the table. These facts further supported a reasonable belief that Palmer was inside the house and resided there based on "the facts and circumstances within the knowledge of the law enforcement agents . . . when viewed in totality." *Magluta*, 44 F.3d at 1535 (finding it reasonable for officers to presume suspect was home where vehicles were parked at home and people were seen outside); *United States v. Bennett*, 555 F.3d 962, 965 (11th Cir. 2009) ("The fact that a suspect may live somewhere else from time to time does not categorically prevent a dwelling from being the suspect's residence."). Thus, the Court finds that the officers could have had a reasonable belief that Palmer lived at Bradford's residence and was inside before they entered.

B. Exceptions from the Search Warrant Requirement

However, officers may also enter a home based on exigent circumstances, consent, or a search warrant. Here, the Government argues that the officers lawfully entered Bradford's home based on his consent when he opened the door and allowed the officers to walk in while having a conversation with them, did not object to anything the officers did, and pointed to

¹ The Court further notes that the Arrest Warrant for Palmer states that Palmer had been kicked out of her mother's house and was not allowed to live at her sister's house; so it appears that Palmer had no permanent address. (Doc. 40-1.)

the back room when asked where Palmer was located. (Docs. 27 & 47.)² Defendant contends that because Bradford was not asked for consent and did not explicitly invite the officers inside, there was no consent. (Docs. 41 & 49 at 5.) The Court finds Defendant's arguments unpersuasive.

Courts should determine whether a defendant voluntarily consented to officers entering his residence based on a number of factors, including: whether the defendant was "free to leave, whether there was coercive police procedure, the extent of the defendant's cooperation or awareness of a right to refuse to consent, whether the defendant could refuse to consent, the extent of the defendant's education and intelligence, and the defendant's belief that no incriminating evidence would be found." *United States v. Ramirez-Chilel*, 289 F.3d 744, 752 (11th Cir. 2002) (citation omitted) (cleaned up). The weight of these factors indicates that Bradford voluntarily consented: after one officer knocked on his door and announced the arrest warrant for Palmer, Bradford said she was getting ready and then engaged in further conversation while walking into the house with the officer; he freely walked around his home, there were no coercive police procedures; he cooperated and was conversational before and after the officers' entry; and it appears he had no issue with the officers entering his home. Specifically, the only facts adduced on the circumstances of the entry were from Investigator Parr, as follows:

Q. Okay. So just relate to the Judge, to the Court, what it is that you remember about your first interaction there with Mr. Bradford?

A. He was very kind, very honest, very cooperative. . . .

Q. As far as you stepped inside, how did that occur? Why did you step inside the house?

A. We were talking about her, and then he just said she was there, so I was waiting for her to come to the -- you know, to walk on out.

Q. So when you came in, were you engaged in discussion with Mr. Bradford?

A. Yeah, we were talking. I think I might have asked a few questions, but I don't exactly remember what.

² The Court notes that exigent circumstances may have existed also, but the Court does not address that issue herein because it was not argued by the government. *United States v. Santa*, 236 F.3d 662, 669 (11th Cir. 2000) (finding that the potential flight or escape of a suspect constitutes an exigent circumstance).

Q. And you continued that conversation after you came into the entrance of the house?

A. I believe so.

Q. Did he at any point tell you not to come into his house?

A. No, sir.

Q. Did he specifically invite you into the house?

A. No, sir. We were just talking.

Q. Okay. Did you feel like you were allowed to come in the house by Mr. Bradford?

A. Yes, sir.

Q. So then -- you were standing in there talking, so continue the story of what happened at that point.

A. At approximately 3 to 5 minutes I asked where she was, and he pointed to the back bedroom, and we went to the bedroom that he said she was at, and she was getting ready, and I believe she was sitting on the bed, and she had an injury. She was on crutches, and she had a broken foot or ankle or something, I believe.

Q. Okay. And did he -- when he pointed to the bedroom, did he say, she's there, but you can't go back there?

A. No, sir.

Q. What was the impression you got from when he pointed?

A. That that's where she was, and -- you know, he just was saying that she was in the back bedroom so that's where we went.

(Doc. 45 at 8:21-24; 10:2-11:13.)

As in *Ramirez-Chilel*, it is “hard to find a ‘show of force’ by the officers - guns were not drawn, nor were a large number of officers surrounding the trailer ready to arrest the suspect,” and Bradford did not appear “overwhelmed by a show of official authority.” 289 F.3d at 751-52. These facts are distinct from those in other cases where an officer followed a defendant into his or her home, and courts refused to recognize that the officer received consent to enter. See, e.g., *United States v. Gonzalez*, 71 F.3d 819, 829-30 (11th Cir. 1996) (finding that consent could not be inferred where a woman refused an officer permission to enter and search her home, and the officer simply followed her inside as she went to get a glass of water); *Bashir v.*

Rockdale Cty., 445 F.3d 1323, 1329 (11th Cir. 2006) (“[C]onsent cannot reasonably be inferred from Bashir’s simple act of disengaging from conversation with Sergeant Reed and walking into the house.”) Rather, it appears that Bradford “demonstrated his consent to entry by ‘yielding the right-of-way’ for the officers to enter.” *Ramirez-Chilel*, 289 F.3d at 751-52. Bradford did more than merely “fail[] to object;”³ he engaged in conversation with Investigator Parr as the two of them walked into the house together. Under these circumstances, it appears that “the officers did receive some sort of implied consent to enter.” *Id.* Furthermore, the officers entered the residence “only to the extent necessary to effectuate the arrest.” *United States v. Degaule*, 797 F. Supp. 2d 1332, 1371-72 (N.D. Ga. 2011) (citation omitted).

C. Exclusionary Rule and Good Faith

Even where a Fourth Amendment violation has occurred, the United States Supreme Court has made it clear that the suppression or exclusion of evidence is *not* “a personal constitutional right” designed to “‘redress the injury’ occasioned by an unconstitutional search.” *United States v. Smith*, 741 F.3d 1211, 1218 (2013) (quoting *Davis v. United States*, 131 S. Ct. 2419, 2426 (2011)). Its “sole purpose” is “to deter future Fourth Amendment violations.” *Id.* at 1218-19 (citing *Davis*, 131 S. Ct. at 2432). For this reason, exclusion is “a remedy of ‘last resort,’ justified *only* where the ‘deterrence benefits of suppression’ outweigh the ‘substantial social costs’ of ‘ignoring reliable, trustworthy evidence bearing on guilt or innocence.’” *Id.* (quoting *Davis*, 131 S. Ct. at 2427). Given the exclusionary rule’s purpose, “evidence obtained from a search should be suppressed only if it can be said that the law enforcement officer had knowledge, or may properly be charged with knowledge, that the search was unconstitutional.” *United States v. Leon*, 468 U.S. 897, 919 (1984) (citing *United States v. Peltier*, 422 U.S. at 542) (holding that evidence need not be suppressed where the officers’ actions were objectively reasonable). Because the exclusionary rule “necessarily assumes that the police have engaged in willful, or at the very least negligent, conduct,” “[w]here the official action was pursued in complete good faith, [] the deterrence rationale loses much of its force.” *United States v. Peltier*, 422 U.S. 531, 539 (1975) (citation omitted).

³ *Gonzalez*, 71 F.3d at 829-30 (explaining that failure to object is not sufficient to infer consent).

The Defendant has not cited, and the Court is not aware of, any law clearly establishing that the officers' conduct here was unlawful. *United States v. Williams*, 871 F.3d 1197, 1203 (11th Cir. 2017) (affirming denial of motion to suppress where "Defendant [] cites no precedent establishing a constitutional violation under these circumstances.") Rather, "[i]n determining whether an officer has conducted a reasonable search and seizure, 'the essence of all that has been written is that the totality of the circumstances - the whole picture - must be taken into account.'" *United States v. Clark*, 337 F.3d 1282, 1286 (11th Cir. 2003) (quoting *United States v. Cortez*, 449 U.S. 411, 417 (1981)). Therefore, where the officers' actions appear to be objectively reasonable when considering the totality of the circumstances facing the officers at the time, suppression is not warranted. *See Williams*, 871 F.3d at 1203.

Here, the officers had reason to believe that Palmer resided at Bradford's home, that she was inside at the time they arrived, and that Bradford consented to them entering his home to effect their arrest of Palmer. Thus, under the totality of the circumstances, the Court finds that Bradford consented to the officers' entry, and even if there was no consent, the officers acted reasonably and therefore, in any event, the exclusionary rule does not apply under these circumstances. The Constitution only protects against "unreasonable searches and seizures," and the officers did not act unreasonably here. U.S. Const. amend. IV. For these reasons, suppressing evidence in this case would not deter any known unconstitutional conduct, and any deterrent effect is greatly outweighed by the significant social costs that would be imposed by suppression. *Hudson v. Michigan*, 547 U.S. 586, 588 (2006) (holding that the social costs of letting the guilty go free, generating a flood of alleged violations, and preventing officers from engaging in reasonable conduct greatly outweigh the deterrent effect of suppression, especially where other avenues deter these violations). Therefore, suppression is not warranted here.

CONCLUSION

For the foregoing reasons, Bradford's Motion to Suppress (Doc. 22) is **DENIED**.

SO ORDERED, this 3rd day of July 2019.

/s/ **W. Louis Sands**
W. LOUIS SANDS, SENIOR JUDGE
UNITED STATES DISTRICT COURT